

AMENDED IN ASSEMBLY APRIL 25, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1957

Introduced by Assembly Member Robert Pacheco
(Coauthors: Assembly Members Bates, Bill Campbell, Correa,
Goldberg, Harman, Strom-Martin, and Zettel)

February 14, 2002

An act to amend ~~Sections 11105 and 13300 of the Penal Code,~~
~~relating to criminal history information.~~ *Section 2920 of the Probate*
Code, relating to public guardians.

LEGISLATIVE COUNSEL'S DIGEST

AB 1957, as amended, Robert Pacheco. ~~Criminal~~ *Public guardians: criminal history information.*

Existing law provides that a public guardian is a county officer and permits a public guardian to be appointed as a conservator for a person when no one else is available who is qualified and willing to act and when the appointment of a guardian or conservator would be in the best interest of the person, as specified.

This bill would permit a public guardian, providing services pursuant to specified conservatorship provisions, to order a fingerprint background check from the Department of Justice on any person whom the public guardian is considering as a potential conservator as an alternative to the appointment of the public guardian. The bill would require the fingerprint background check to include a record of all arrests resulting in conviction and all arrests for which final disposition is pending. The bill would prohibit requiring the Department of Justice to provide the public guardian with subsequent arrest information. The

bill would require that criminal records information received by a public guardian and disclosed to the attorney of a proposed conservatee be kept confidential, except as specified.

~~Existing law requires the Department of Justice to maintain state summary criminal history information and requires the department to furnish the information to specified persons, while authorizing the department to furnish this information to other specified parties. Existing law similarly requires local criminal justice agencies to furnish local summary criminal history information to specified persons, while authorizing the local agency to furnish this information to other specified parties. Existing law provides for the appointment of a conservator for the person or the estate of a person who is gravely disabled, as specified, and provides for the appointment of a guardian or conservator for an estate, under specified conditions.~~

~~This bill would require the Department of Justice and any local criminal justice agency to provide criminal history information to the county public guardian or other designated agency providing conservatorship services for specified purposes pursuant to the aforementioned laws.~~

~~By expanding the duties of local criminal justice agencies, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes no.~~

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 11105 of the Penal Code is amended to~~
- 2 ~~SECTION 1. Section 2920 of the Probate Code is amended to~~
- 3 ~~read:~~

2920. If any person domiciled in the county requires a guardian or conservator and there is no one else who is qualified and willing to act and whose appointment as guardian or conservator would be in the best interest of the person:

(a) The public guardian may apply for appointment as guardian or conservator of the person, the estate, or the person and estate.

(b) The public guardian shall apply for appointment as guardian or conservator of the person, the estate, or the person and estate, if the court so orders. The court may make an order under this subdivision on motion of an interested person or on the court's own motion in a pending proceeding or in a proceeding commenced for that purpose. The court shall not make an order under this subdivision except after notice to the public guardian for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1, consideration of the alternatives, and a determination by the court that the appointment is necessary. The notice and hearing under this subdivision may be combined with the notice and hearing required for appointment of a guardian or conservator.

(c) A public guardian providing conservatorship services pursuant to this chapter or Chapter 3 (commencing with Section 5350) of Part 2 of Division 5 of the Welfare and Institutions Code may order a fingerprint background check from the Department of Justice on any person whom the public guardian is considering as a potential conservator as an alternative to the appointment of the public guardian. The fingerprint background check shall include a record of all arrests resulting in conviction and all arrests for which final disposition is pending. The Department of Justice may not be required to provide the public guardian with subsequent arrest information.

(d) The criminal records information received by a public guardian shall be kept confidential, except that it may be disclosed under seal to the court and to the attorney for the person for whom a conservatorship is being considered, when the appointment of a conservator as an alternative to the public guardian is being considered by the court. The attorney for the proposed conservatee shall keep any disclosed criminal records information confidential.

1
2
3
4
5
6
7
8
9
10
11
12

**All matter omitted in this version of the
bill appears in the bill as introduced in the
Assembly, February 14, 2002 (JR 11)**

CORRECTIONS
Digest Key — Page 2.

O

